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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 20040511

Application Number: 09/411,106

Filing Date: October 04, 1999

Appellant(s): ALLEMAN ET AL.

Robert V. Vickers
For Appellant

Supplement to the EXAMINER'S ANSWER

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GROUP 1700

This is in response to the Reply Brief filed 2/12/04 and is a supplement to the Examiner's Answer mailed 1/30/04. In order to ensure the record is clear on appeal, the questions raised by the Reply Brief regarding formal matters such as the status of claims are addressed herein.

The appellant has expressed confusion over the status of certain claims, specifically claims 72, 73, and 82. The Examiner's Answer points out in the "Status of Claims" that two separate grounds for rejection under 35 U.S.C. 112(1) have been dropped, while one additional ground for rejection under 35 U.S.C. 112(1) is maintained. The appellant appears to be confused by the fact that these are three separate grounds for rejection, each concerning separate issues, under 35 U.S.C. 112(1) over three separate yet overlapping groups of claims. Specifically, claims 72, 73, and 82 were each originally rejected twice, on two separate grounds, under 35 U.S.C. 112(1). Although *one* of these grounds for rejection was dropped, the *other* grounds for rejection was maintained, such that these claims are still rejected under 35 U.S.C. 112(1), but only on the one grounds which is maintained and included in the "Grounds of Rejection" in the Examiner's Answer. Thus it appears that the record is clear that these claims are rejected under 35 U.S.C. 112(1) on the *one* grounds stated.

The appellant has also noted that claims 76-81 do not exist in this appeal. These claims were cancelled by amendment after final and are not formally included in the Examiner's Answer. Please note that in the Examiner's Answer, the "Grounds for Rejection" correctly identifies that claims 48-61, 73-75, and 82 are rejected under 35 U.S.C. 112(1) and also the "Grouping of Claims" does not include cancelled claims 76-81. The appellant is perhaps confused that the "Status of Claims" in the Examiner's Answer merely makes reference to the originally made 35 U.S.C. 112(1) of "claims 48-61 and 72-82" which is not meant in any way to

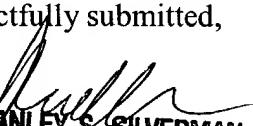
be construed as implying claims 76-81 are still pending. Reference is simply made to the rejection originally made, in an attempt to clarify which original grounds for rejection under 35 U.S.C 112(1) are maintained and which are not, which has been a point of some confusion (see above). The listing of the “Grounds of Rejection” and the “Grouping of Claims” in the Examiner’s Answer, however, makes the record quite clear as to the status of all claims present in the appeal.

Lastly, regarding the grouping of claims, the appellant refers to the “Grouping of Claims” presented in the Appellants’ Revised Appeal Brief, which simply noted that the claims do not stand or fall together, then presents a new “Grouping of Claims”. The examiner would simply like to note that although the appellant originally indicated the claims do NOT stand or fall together, the appellant did not include reasons in support thereof for each claim. As such, the claims were grouped by the examiner according to the reasons presented by the appellant in the revised appeal brief, including one separate grouping of all claims indicated to have allowable subject matter. The newly submitted grouping of claims notably omits both claim 24 which currently stands rejected, in addition to the claims indicated to have allowable subject matter, and also is not accompanied by reasons in support thereof.

Colleen Cooke

May 12, 2004

Respectfully submitted,


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